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09/870,858	05/30/2001	Todd D. Andersen	P1065	8680

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EXAMINER
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BRITTAIN, JAMES R

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 08/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/870,858

Applicant(s)

ANDERSEN ET AL.

Examiner

James R. Brittain

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9, 17-19, 21, 23 and 25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23 is/are allowed.
- 6) ☒ Claim(s) 1-9, 17-19, 21 and 25 is/are rejected.
- 7) ☒ Claim(s) 1-9 and 17-19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date: _____ |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Objections***

Claims 1-9 and 17-19 are objected to because of the following informalities: The word -- tarp-- (claim 1, line 10) is misspelled. The remaining claims are objected to because they depend from an objected to claim. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

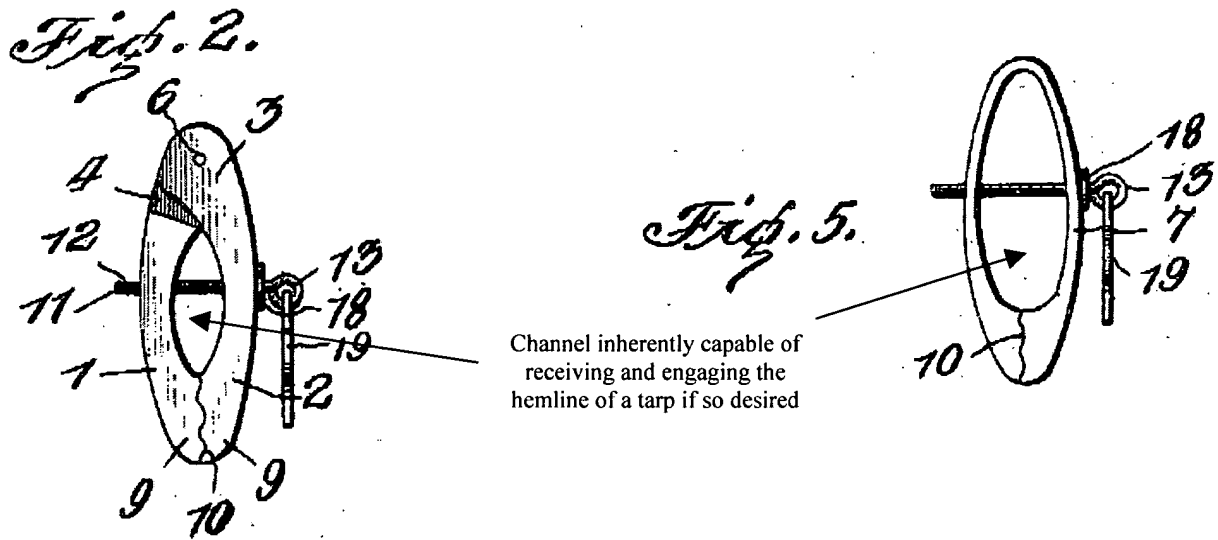
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 25 is rejected under 35 U.S.C. 102(b) as being anticipated by Spencer (US 794561).

Spencer (figures 2, 5) teaches an adjustable clip assembly, comprising: first and second, opposing jaw portions made from a single spring member 7 made of resilient material, the jaw portions having first ends that are joined together and second ends that are spread apart so as to define a receiving area the jaw portions having first and second contoured surfaces inherently usable for engaging sheet material of a tarp positioned within the receiving area, the contoured surfaces comprising a plurality of transverse interfitting, non-interlocking ridges formed on the first and second jaw portions, the interfitting ridges having rounded contours so as to be inherently capable of avoiding damage of the sheet material of a tarp held therein; and a finger-operable adjustment screw 13 interconnecting the first and second jaw portions, for adjustably urging the jaw portions into gripping engagement with an article positioned within the receiving

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area. Behind the jaws a channel is formed that is inherently capable of receiving and engaging a hemline of the tarp if so desired. The tarp is not claimed in combination. This is shown by applicant's use of the generic "article" in line 12 and the for use language "for engaging sheet material of a tarp" (line 5), "for gripping said sheet material of said tarp" (line 8) and "for receiving and engaging a hem line of said tarp" (line 7).



### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

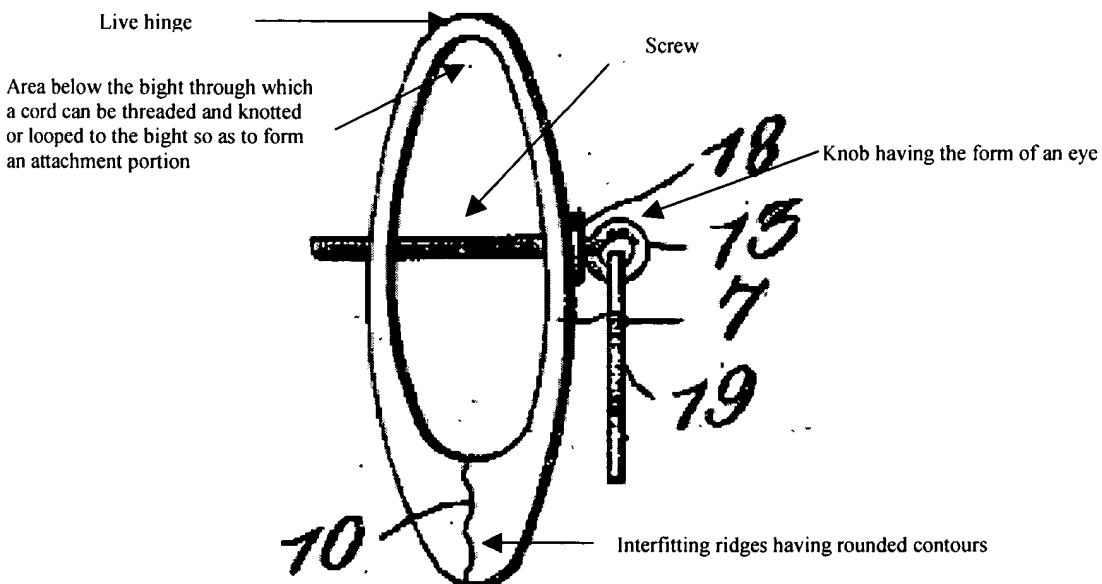
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spencer (US 794561) in view of Miller et al. (US 3896527).

Spencer (figure 5) teaches an adjustable clip assembly, comprising: first and second, opposing jaw portions made from a single spring member 7 made of resilient material, the jaw

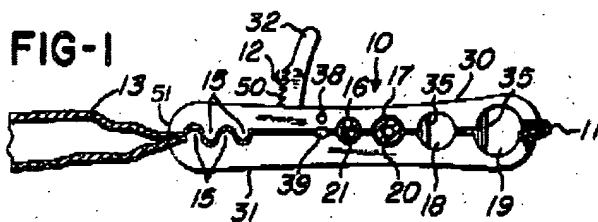
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portions having first ends that are joined together and second ends that are spread apart so as to define a receiving area the jaw portions having first and second contoured surfaces inherently usable for engaging sheet material of a tarp positioned within the receiving area, the contoured surfaces comprising a plurality of transverse interfitting, non-interlocking ridges formed on the first and second jaw portions, the interfitting ridges having rounded contours so as to be inherently capable of avoiding damage of the sheet material of a tarp held therein; and a finger-operable adjustment screw 13 interconnecting the first and second jaw portions, for adjustably urging the jaw portions into gripping engagement with an article positioned within the receiving area.

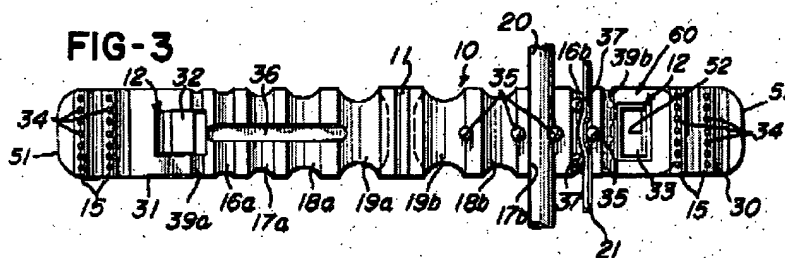


The tarp is not claimed in combination as is shown by the generic term “article” (claim 1, line 12; claim 21, line 12) and the for use language “for engaging sheet material of a tarp” (claim 1, lines 4-5; claim 21, lines 4-5). The difference is that the ridges lack surface texturing in the form of a multiplicity of small, raised protrusions forming a grainy surface for engaging a tarp.

However, Miller et al. (figures 1, 3) teaches that in the environment of rounded ridges 15 acting as jaws for gripping sheet material that it is desirable to further provide a surface texturing in the form of a multiplicity of small, raised protrusions 34 forming a grainy surface to enhance the gripping effect of the jaw portions (col. 4, line 62 - col. 5, line 1).



To enhance the gripping ability of the ribs 15 when the clamp 10 is held in closed juxtaposition it is useful to provide nodules 34 on each of the projecting surfaces of channels 15, said nodules serving to enhance the friction created when the clamp 10 is closed as in FIGS. 1 and 2, thus decreasing the possibility of the accidental or unintentional removal of material 13 from the clamp while the lock member 32 engages strike 30.



Since enhancement of the gripping effect of the undulating jaws of Spencer would be desirable for further maintaining the held object within the jaws in the event of being tossed about or pulled, it would have been obvious to modify clamp of Spencer so that the gripping jaws have surface texturing in the form of a multiplicity of small, raised protrusions forming a grainy surface for engaging a tarp in view of Miller et al. (figures 1, 3) teaching that it is desirable to further provide a surface texturing in the form of a multiplicity of small, raised protrusions 34 forming a grainy surface to enhance the gripping effect of the jaw portions (col. 4, line 62 - col. 5, line 1).

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In regard to claim 2, the connected jaw portions of the device of Spencer is formed by a single spring material that is bent or bowed so that the ends are brought toward each other (page 1, lines 52-56) so that is clear that there is an elastic restoring force to bias the jaws away from each other and further the assemble clasps the secured article by having its jaws drawn together by the screw 13 so that it is clear that the spring nature of the material biases the jaws away from each other.

As to claim 4, the single piece of resilient material of the device of Spencer is a unitary structure inherently capable of being molded and the process step provides no further structure different from that disclosed by Spencer.

Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spencer (US 794561) in view of Miller et al. (US 3896527) as applied to claim 5 above, and further in view of Kelly (US 4097169).

In regard to claims 8 and 9, the further difference with respect to the adjustable clip assembly of Spencer is that the threaded shaft has the knob 13 integral therewith and there is a threaded opening on the jaw furthest from the knob 13 so as to receive the screw rather than there being the opposite situation of the head fixed to a jaw and the knob forming a nut to effect the clamping. However, Kelly (figures 1-4) teaches clamp structure for a tarpaulin including first and second opposing jaw portions, the jaw portions having first ends 25, 26 joined together and second ends 15, 16 that are spread apart so as to define a receiving area. There is a screw operator 52 with a wing nut 53 acting as a knob for bringing the jaws into engagement. Having the wing nut receiving the screw permits ready view of the knob and threaded end of the screw on the same side of the clamp so as to make it easier to view both at the same time and not over

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loosen the screw to the point of its removal from the receiving threaded member. As the securement of the clamp and maintaining of the screw in the receiving threaded member is important, it would have been obvious to modify the clamp assembly of Spencer so that the threaded end of the screw extends through the knob as taught by Kelly so as to permit ready view of the knob and threaded end of the screw on the same side of the clamp so as to make it easier to view both at the same time and not over loosen the screw to the point of its removal from the receiving threaded member.

Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spencer (US 794561) in view of Miller et al. (US 3896527) as applied to claim 2 above and further in view of Cameron (US 5388313).

In regard to claims 17 and 18, the further difference with respect to the adjustable clip assembly of Spencer is that while a cord can be readily threaded around the bight portion and knotted or looped thereon so as to form an attachment portion for a cord, there is no attachment portion extending from the joined ends of the jaw portions. However, Cameron (figure 10) teaches clamp assembly structure in which the attachment portion including the aperture for the cord 140 extends from the joined ends of the jaws so as to make it easier to manipulate and monitor the connection to the clamp. As it would be desirable to make securement of a cord to the clamp of Spencer easier, it would have been obvious to modify the clamp of Spencer to have a dedicated structure extending from the joined ends of the jaws as taught by Cameron to make securement of a cord easier.



Claims 17-19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Spencer (US 794561) in view of Miller et al. (US 3896527) as applied to claim 2 above and further in view of Byers et al. (US 5046222).

In regard to claims 17 and 18, the further difference with respect to the adjustable clip assembly of Spencer is that while a cord can be readily threaded around the bight portion and knotted or looped thereon so as to form an attachment portion for a cord, there is no attachment portion extending from the joined ends of the jaw portions in the form of a hook. However, Byers et al. (figures 6, 8, 9) teaches clamp structure used for many different sheet material including tarpaulins wherein there is an attachment portion 42, 44, 46, 48 extending beyond the clamping structures including an aperture 40 and hook 48 so that the device can be secured to a cord if so desired. As it would be desirable to make securement of a cord to the clamp of Spencer easier, it would have been obvious to modify the clamp of Spencer to have a dedicated structure extending from the joined ends of the jaws as taught by Byers et al. to make securement of a cord easier via either an aperture or a hook.

Claims 1-5, 8, 9, 17, 18 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly (US 4097169) in view of Dinkins (US 5245715) and Miller et al. (US 3896527).

Kelly (figures 1-4) teaches clamp structure for a tarpaulin including first and second opposing jaw portions, the jaw portions having first ends 25, 26 joined together and second ends 15, 16 that are spread apart so as to define a receiving area. There is a screw operator 52 with a wing nut 53 acting as a knob for bringing the jaws into engagement. The tarp is extended around a rod 48 and clamped. The difference is that the jaws lack a plurality of transverse interfitting, non-interlocking ridges formed on the first and second jaw portions, the inter-fitting ridges

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having rounded contours so as to avoid damaging the tarp with surface texturing in the form of a multiplicity of small, raised protrusions forming a grainy surface for engaging a tarp. However, Dinkins (figures 1, 2) teaches that in the environment of using a blanket acting as a cover or tarpaulin over beach sand that clamps 11 need not be secured to the blanket via extra rods, but instead can be secured more simply to the blanket by a plurality of transverse interfitting, non-interlocking ridges formed on the first and second jaws 13, 15 having rounded contours (col. 3, lines 1-18) and Miller et al. (figures 1, 3) teaches that in the environment of rounded ridges 15 acting as jaws for gripping sheet material that it is desirable to further provide a surface texturing in the form of a multiplicity of small, raised protrusions 34 forming a grainy surface to enhance the gripping effect of the jaw portions (col. 4, line 62 - col. 5, line 1). As it would be desirable to utilize the clamps of Kelly quickly in many environments, it would have been obvious to modify the clamp of Kelly so as to have jaws that can function to clasp the tarpaulin without the need for a rod in view of Dinkins teaching that in the environment of using a blanket acting as a cover or tarpaulin over beach sand that clamps 11 need not be secured to the blanket via extra rods, but instead can be secured more simply to the blanket by a plurality of transverse interfitting, non-interlocking ridges formed on the first and second jaws 13, 15 having rounded contours (col. 3, lines 1-18) and enhancement of the gripping effect of the undulating jaws of Kelly would be desirable for further maintaining the held object within the jaws in the event of being tossed about or pulled, it would have been obvious to modify clamp of Kelly so that the gripping jaws have surface texturing in the form of a multiplicity of small, raised protrusions forming a grainy surface for engaging a tarp in view of Miller et al. (figures 1, 3) teaching that it is desirable to further provide a surface texturing in the form of a multiplicity of small, raised protrusions 34

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forming a grainy surface to enhance the gripping effect of the jaw portions (col. 4, line 62 - col. 5, line 1). As to claim 4, the single piece of resilient material of the device of Kelly is a unitary structure inherently capable of being molded in a casting process and the process step provides no further structure different from that disclosed by Kelly. In regard to claims 17 and 18, Dinkins suggests providing an extension 12 with an aperture therein for securement of a cord 19 thereto and it would have been obvious to provide the device of Kelly with such structure for easier securement of the cord.

Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly (US 4097169) in view of Dinkins (US 5245715) and Miller et al. (US 3896527) as applied to claim 5 above, and further in view of Spencer (US 794561).

Further modification of the clamp of Kelly such that the threaded shaft is received in a threaded bore would have been obvious in view of Spencer (figures 4, 5) that teaches the use of a threaded shaft 12 and mating threaded bore 16 in the jaw so as to draw the jaws 10 together.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly (US 4097169) in view of Dinkins (US 5245715) and Miller et al. (US 3896527) as applied to claim 17 above, and further in view of Byers et al. (US 5046222).

Further modification of the attachment portion of Kelly such that there is an attachment portion extending from the joined ends of the jaw portions in the form of a hook would have been obvious in view of Byers et al. (figures 6, 8, 9) teaching clamp structure used for many different sheet material including tarpaulins wherein there is an attachment portion 42, 44, 46, 48 extending beyond the clamping structures including an aperture 40 and hook 48 so that the

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device can be secured to a cord if so desired as such structure would be desirable to make securement of a cord to the clamp of Kelly easier via either an aperture or a hook.

***Allowable Subject Matter***

Claim 23 is allowed.

***Response to Arguments***

Applicant's arguments filed May 22, 2006 have been fully considered but they are not persuasive.

Applicant argues that the nodules 34 of the device of Miller et al. don't provide a "grainy surface". However, applicant provides no discriminant to distinguish beyond that shown by Miller et al. The clamp of Miller et al. shows a multiplicity of "raised protrusions" adjacent each other that would feel like a grainy surface to the touch. The argument is therefore unpersuasive. Applicant further argues that with respect to claim 2, that it would be entirely possible to form the clip of Spencer so that the jaws were biased toward each other. Spencer states "In order to clamp the jaws 9 together or upon the article and which is illustrated in Fig. 1 of the drawings as a pair of rubber overshoes, I provide a rod or bolt 11, which has one of its ends screw-threaded, as at 12, and its opposite end formed with a loop or eye 13." (page 1, lines 64-71) and "A washer 18 is provided upon the bolt or rod 11 between its eye 13 and the outer face of the member 2, so that when said bolt or rod is screwed inwardly the two members will be drawn together toward each other and their jaws 9 clamped upon the object between them." (page 1, lines 76-82). The disclosure indicates the bolt draws the jaws together. While applicant argues that the species of figure 5 can be resilient in the opposite direction so as to operate in a manner so that the bolt operates so as not to draw the jaws together since they would already be biased together, this is a

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speculative argument made by applicant contrary to the teachings of the disclosure of Spencer and one having ordinary skill in the art would not read the disclosure of Spencer and come up with a totally different manner of operation.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

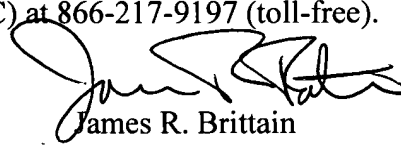
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is (571) 272-7065. The examiner can normally be reached on M-F 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



James R. Brittain  
Primary Examiner  
Art Unit 3677

JRB